

GAHC010094612024



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(CrI.)/445/2024

KURAN ALI
S/O LATE ABDUL RAHMAN SK,
RESIDENT OF VILLAGE LINGDOBA,
PS AND DIST. BONGAIGAON, ASSAM.

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:SAHJAMAL SK
S/O LATE JONAB ALI

RESIDENT OF DOWAGURI
PS CHAPAR
DIST DHUBRI
ASSA

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. I U CHOWDHURY,MR. A M AHMED,MR. A AHMED,P. GHOSH

Advocate for the Respondent : PP, ASSAM,

Linked Case : I.A.(CrI.)/682/2024

RAMJAN ALI AND 2 ORS
S/O LATE HAJRAT ALI
RESIDENT OF VILLAGE LINGDOBA

PS AND DIST. BONGAIGAON
ASSAM.

2: EYASIN ALI @ EYUSIR ALI SK

S/O LATE NURUL HOQUE
RESIDENT OF VILLAGE LINGDOBA

PS AND DIST. BONGAIGAON
ASSAM.

3: ABDUL BAREK @ BAREK ALI

S/O MOSTAFA

RESIDENT OF NANGKHARGAON
PS AND DIST BONGAIGAON
ASSAM
VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP ASSAM

2:SAHJAMAL SK
S/O LATE JONAB ALI

RESIDENT OF DOWAGURI
PS CHAPAR
DIST DHUBRI
ASSAM

Advocate for : MR. B CHOWDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

Linked Case : CrI.A./268/2023

KURAN ALI AND 3 ORS.
S/O LATE ABDUL RAHMAN SK

RESIDENT OF VILLAGE LINGDOBA

PS AND DIST. BONGAIGAON
ASSAM.

2: RAMJAN ALI
S/O LATE HAJRAT ALI
RESIDENT OF VILLAGE LINGDOBA

PS AND DIST. BONGAIGAON
ASSAM.

3: EYASIN ALI @ EYUSIR ALI SK

S/O LATE NURUL HOQUE
RESIDENT OF VILLAGE LINGDOBA

PS AND DIST. BONGAIGAON
ASSAM.

4: ABDUL BAREK @ BAREK ALI

S/O MOSTAFA

RESIDENT OF NANGKHARGAON
PS AND DIST BONGAIGAON
ASSAM
VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY PP ASSAM

2:SAHJAMAL SK
S/O LATE JONAB ALI

RESIDENT OF DOWAGURI
PS CHAPAR
DIST DHUBRI
ASSAM

Advocate for : MR H R A CHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 10-12-2024

Suman Shyam, J

Heard Mr. B. Chowdhury, learned counsel for the applicants in I.A.(Crl.) No. 682/2024 and Mr. A.M. Ahmed, learned counsel for the applicant in I.A.(Crl.) No. 445/2024, both the applications arising out of Crl. A. No. 268/2023. Also heard Ms. S. Jahan, learned Addl. P.P. Assam appearing for the State.

By the judgment and order dated 30-06-2023 passed by the learned Addl. Sessions Judge, Bilashipara, Assam in connection with Sessions Case No. 211/2011, the three applicants in I.A.(Crl.) No. 682/2024 and the sole applicant in I.A.(Crl.) No. 445/2024 were *inter-alia* convicted under Section 302/34 IPC for committing the murder of deceased Janab Ali and sentences to suffer life imprisonment and also to pay fine with default stipulation. The applicants were also convicted under Section 458/ 323/ 34 IPC and awarded jail sentences. Since then they are in jail.

The State has filed objection, opposing the prayer for bail made by the applicants.

After going through the records, we find that the injured eye witness PW-4 has clearly implicated the accused persons. Moreover, PWs 2 and 3, who have been examined as eye witnesses to the occurrence, have also deposed more or less in similar lines, implicating the applicants.

Mr. Chowdhury submits that PWs 2 and 3 are not eye witnesses to the occurrence and there is material contradiction in the testimony of PW-4.

Similar is the submission of Mr. Ahmed, learned counsel for the applicant in I.A. (Crl.) No. 445/2024.

After a careful analysis of the material available on record, we are of the view that appreciating the arguments advanced by the applicants' counsel would require detail hearing of the appeal.

In view of the evidence of PWs 2, 3 and 4 as well as other materials available on record, we are of the opinion that this is not a fit case for granting bail to the applicants. As such, the prayer for suspension of jail sentence and for grant of bail made by the four

applicants stand rejected. However, we clarify that our opinion expressed herein above is only *prima facie* in nature and the same will not have any bearing in the outcome of the pending appeal.

Considering the request made by the applicants' counsel seeking early hearing of the pending appeal and in view of the fact that paper book has also been prepared in the appeal, we are inclined to grant the said prayer. Necessary order will be passed accordingly, in the main appeal.

With the above observation, both these I.A.s stand disposed of.

JUDGE

JUDGE

GS

Comparing Assistant